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Ameritech

James K. Smith
Director
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JUN - 6 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 6, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

Re: **Ex Parte Statement**
CC Docket 96-98 (Shared Transport)

Dear Mr. Caton:

On June 5, 1997, Mr. John Lenahan, Ms. Lynn Starr and I met with Ms. Regina Keeney, Chief, Common Carrier Bureau; Mr. Richard Metzger, Deputy Bureau Chief, Common Carrier Bureau; Mr. Richard Welch, Chief, Policy and Program Planning Division; Mr. Jim Schlichting, Chief, Competitive Pricing Division and members of their respective staff to discuss Ameritech's position on shared transport as set forth in comments filed in this proceeding. The attached information was used as part of our discussion.

Sincerely,

Attachment
cc: R. Keeney
R. Metzger
R. Welch
J. Schlichting

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List ABCDE

"COMMON TRANSPORT" IS NOT UNBUNDLED INTEROFFICE TRANSMISSION FACILITIES

1. Statutory Definitions And Principals

- The definition of Network Element requires access to a particular facility or equipment.
- The Commission's recent interpretation of "facilities" in the Universal Service docket is consistent with the statutory definition of network element.
- On-demand, and undifferentiated access to the features, functions and capabilities provided by multiple elements is a service.
- The FCC's First Report and Order in CC 96-98 recognizes the clear difference between "network elements" and "services;"
- Section 251(c)(3) does not transform a service into an unbundled network element.

2. Docket 96-98 Did Not Address "Common Transport."

- The First Report and Order required unbundled shared and dedicated transport, it did not require a "single, combined network element" comparable to tandem switched transport.
- Common Transport is a service, not a network element.
- The "blended rate" advocated by WorldCom and AT&T is also inconsistent with the Commission's recent decision in the access charge reform order.
- There is no record evidence to support a conclusion that common transport was included in the First Report and Order.

3. Shared Transport -- As Defined In 96-98 -- Gives CLECs A Meaningful Opportunity To Compete.

- Ameritech complies with the FCC's "shared transport" network element requirements.
- Ameritech also offers a carrier the opportunity to combine an unbundled local loop and unbundled local switching line card with common transport service.

"COMMON TRANSPORT" IS NOT UNBUNDLED INTEROFFICE TRANSMISSION FACILITIES

On September 30, 1996, WorldCom filed a Petition for Clarification in Docket 96-98. WorldCom notes -- and Ameritech agrees -- that "it is clear" that ILECs must provide an end office-to-tandem link as shared transport and the tandem-to-SWC link as dedicated transport. WorldCom concedes that it is "not clear" whether the Commission's rules require ILECs to provide "tandem-switched transport on a network element basis . . . ." WorldCom asks the Commission to clarify that ILECs must provide ". . . tandem-switched transport as a single, combined network element pursuant to an end-to-end, usage-based rate with airline mileage measured between the end office and the SWC . . . ." See Petition for Clarification, pp. 1-2.

Likewise, AT&T in numerous ex partes filed in this docket contends that "shared transport" is synonymous with tandem-switched transport. Similar to WorldCom, AT&T claims that "shared transport is a blended, direct-trunked and tandem-trunked arrangement with tandem switching included." See AT&T letter from Bill Davis to Ameritech, dated May 14, 1997.

1. Statutory Definitions And Principals

- **The definition of Network Element requires access to a particular facility or equipment.** The Act defines "network element" as a "facility or equipment" used to provide a telecommunications service. A network element also includes features, functions, and capabilities that are provided "such facility or equipment ...." Therefore, in order to obtain a "feature, function or capability," -- as a network element -- the requesting carrier must designate a discrete facility or equipment, in advance, for a period of time.

- **The Commission's recent interpretation of "facilities" in the Universal Service docket is consistent with the statutory definition of network element.** The Commission construed the term "facility" as used in Section 214(e) to refer solely to "physical components of the telecommunications network that are used in the transmission or routing" of calls. See ¶¶ 150-151. Notwithstanding fn. 388 of the Universal Service Order, this interpretation is consistent with the statutory definition of network element and confirms that an interpretation of "network" which would include undifferentiated access to features and functionality, without obtaining access to a particular facility or equipment is inconsistent with the statutory definition of network element.

- **On-demand, and undifferentiated access to the features, functions and capabilities provided by multiple elements is a service.** The definition in the Act does not support an interpretation that a requesting carrier can purchase undifferentiated access to network capabilities, without purchasing access to a

particular facility or equipment used to provide telecommunications service. Obtaining on-demand, undifferentiated use of the functions and capability of the public switched network is the purchase of a service, not access to a network element. Such an interpretation would eliminate any difference between access to a network element or purchase of a service.

- **The FCC's First Report and Order in CC 96-98 recognizes the clear difference between "network elements" and "services."** In distinguishing between network elements and services, the Commission noted that a carrier purchasing access to network elements must pay for that facility, and faces a risk that it may not have sufficient demand for services "using that facility" to recoup its costs. In contrast, a carrier using resold services does not face this risk. See First Report and Order at ¶ 344. (Emphasis added)

- **Section 251(c)(3) does not transform a service into an unbundled network element.** A CLEC has the right to combine an unbundled network element with another unbundled network element, but each network element that is combined must be capable of being provided on an unbundled basis in the first instance. However, as a matter of engineering fact, common transport -- as defined by WorldCom and AT&T -- cannot function without tandem switching, and cannot be provided as a stand-alone unbundled network element separate from any other element.

2. Docket 96-98 Did Not Address "Common Transport"

- **The First Report and Order required unbundled shared and dedicated transport, it did not require a "single, combined network element" comparable to tandem switched transport.**

  - For example, in ¶ 440 the Commission's Order requires ILECs "to provide unbundled access to shared transmission facilities between end offices and the tandem switch."

  - The Commission also required ILECs to provide "unbundled access to dedicated transmission facilities between LEC central offices or between such offices and those of competing carriers."

  - The Commission's rationale was premised in part on the Competitive Checklist Item V which requires that local transport be "unbundled from switching or other services." See e.g., fn. 986

  - Likewise in discussing its proxy pricing for shared transmission facilities, the Commission clearly stated that it did not include any rates for "tandem switching" and therefore its rules for unbundled transport were not

inconsistent with the Court of Appeals decision in Comptel v. FCC. See ¶ 823.

- Finally, with respect to tandem switching, the Commission's Order in ¶ 425 requires an ILEC to provide "access to their tandem switch unbundled from interoffice transmission facilities.".

- **Common Transport is a service, not a network element.**

  - Identical to "tandem-switched transport," an existing access service. See First Report and Order in Docket 96-262 at ¶ 158

  - Undifferentiated access to the entire interoffice transport and tandem switching infrastructure

  - Identical routing, trunk ports, trunks and tandem switching that is used to provide local and toll usage and switched access service

  - A bundled service, under which CLECs provide no engineering, no routing, no designation of any specific facilities or equipment

- **The "blended rate" advocated by WorldCom and AT&T is also inconsistent with the Commission's recent decision in the access charge reform order.**

  - See e.g. ¶¶ 158-194 of that Order, rejecting the so-called unitary rate structure for tandem-switched transport.

- **There is no record evidence to support a conclusion that common transport was included in the First Report and Order.**

  - Terminating recording and measurement at the end office

  - Identification of the originating carrier for local calls over common transport trunks or ports

  - Rate structure or proxy pricing for a "blended" rate for tandem and direct routed calls

  - Application of switched access charges and so-called meet-point billing arrangements

3. Shared Transport -- As Defined In 96-98 -- Gives CLECs A Meaningful Opportunity To Compete.

- **Ameritech complies with the FCC's "shared transport" network element requirements**
  - Ameritech's approved interconnection Agreements make available dedicated and shared interoffice transmission as a network element.
  - Ameritech has also offered another variation, called Shared Company Transport (see Ex Parte dated 2/25/97 and 3/28/97).
  - As these Ex Partes demonstrate, Ameritech's shared transport provides CLECs a meaningful opportunity to enter using this network element.
- **Ameritech also offers a carrier the opportunity to combine an unbundled local loop and unbundled local switching line card with common transport service.**
  - The debate is not whether CLECs have a viable opportunity to compete; they do.
  - The real issue boils down to price arbitrage and revenue shifts.